

FILED ELECTRONICALLY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	: 10/650,603	Confirmation No. 8329
Applicant	: David H. Burkett	
Filed	: August 28, 2003	
Art Unit	: 3726	
Examiner	: John C. Hong	
Title	: WIRE JOINT AND METHOD	
Docket No.:	: ACS 75758 (G3564USD1)	
Customer No.	: 24201	
Date	: November 29, 2007	

PETITION UNDER 37 C.F.R. § 1.137(b)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Petition requesting that the application be revived on the grounds of unintentional delay under 37 C.F.R. § 1.137(b) is responsive to the Notice of Abandonment mailed November 5, 2007.

The prosecution in the present application is extensive and the entire prosecution history need not be presented in order to provide evidence of the unintentional delay required for the present petition. Notably, after a final Office action and Pre-Appeal Brief was filed, the Office issued a "Notice of Panel Decision from Pre-Appeal Brief Review" which is attached hereto as Exhibit A. The Notice indicated that the Office would reopen prosecution and withdraw the Office action. Further, a new Office action would be forthcoming. An Office action was mailed June 8, 2006 (Exhibit B) in which all of the pending claims were rejected. Thereafter, a Response was timely filed on September 12, 2006 (Exhibit C).

A final Office action was mailed November 27, 2006 (Exhibit D). Thereafter, Applicant timely filed electronically a Notice of Appeal on February 27, 2007 (Exhibit D). An Appeal Brief was not filed in the application.

The attorney handling the present application, John V. Hanley, Esq., left the firm in about August 2007 (after 15 years of working with the present firm), and his secretary Kerry Tuszynski also left at the same time. The undersigned attorney has taken over prosecution of the application. Upon inquiry, Mr. Hanley does not recall why an Appeal Brief was not filed. Since an Appeal Brief was not filed, the application became abandoned on May 27, 2007. A Notice of Abandonment was mailed November 5, 2007 (Exhibit F).

Our law firm has an electronic docketing system that properly docketed the due dates for the Notice of Appeal and the filing of the Appeal Brief. The only plausible explanation is that the secretary, Ms. Tuszynski, looked in the file, saw the Pre-Appeal Brief that was filed April 27, 2006, and misunderstood that to be the Appeal Brief. Accordingly, it is believed that Ms. Tuszynski then authorized the Docketing Department to clear the due date for the filing of the Appeal Brief. The result being that the Appeal Brief was not filed and the application became abandoned when no Response was filed to the final Office action (Exhibit D).

The undersigned attorney became aware that the Appeal Brief was not filed as of about October 30, 2007. On November 8, 2007, the undersigned attorney called Examiner Hong and left a voicemail questioning whether the present application had become abandoned. The Examiner called back the same day and indicated that the Notice of Abandonment had been mailed November 5, 2007. Thereafter, the Assignee was informed and this Petition to Revive was authorized.

The entire delay in filing the required Appeal Brief from the due date for the Appeal Brief until the filing of this Petition was unintentional.

The invention set forth in the present application is of substantial importance to the Applicant. It is respectfully requested that this Petition to revive the application on the grounds of unintentional delay be granted.

The petition fee set forth in 37 C.F.R. § 1.17(m) in the amount of \$1,540 is being submitted herewith. Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 06-2425.

Respectfully submitted,

FULWIDER PATTON LLP

By: /John S. Nagy/
John S. Nagy
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Enclosures

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